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**THIS DISPOSITION  
IS NOT CITABLE AS PRECEDENT  
OF THE T.T.A.B.**

Paper No. 12  
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**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**Trademark Trial and Appeal Board**

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In re 4YourParty.com, LLC

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Serial No. 75/932,704

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Neal E. Friedman of Davis & Bujold, P.L.L.C. for  
4YourParty.com, LLC.

Gene V.J. Maciol, Trademark Examining Attorney, Law Office  
109 (Ronald Sussman, Managing Attorney).

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Before Chapman, Holtzman and Rogers, Administrative  
Trademark Judges.

Opinion by Chapman, Administrative Trademark Judge:

On March 1, 2000, 4YourParty.com, LLC (a New Hampshire limited liability company) filed an application to register on the Principal Register the mark 4YOURPARTY.COM for "distributorship services in the field of party and catering supplies" in International Class 35. The application is based on applicant's claimed date of first use and first use in commerce of September 24, 1999.

Citing Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), the Examining Attorney refused registration on the ground that when applicant's asserted mark is used in

connection with the identified services, it is merely descriptive thereof.

When the refusal was made final, applicant appealed, and both applicant and the Examining Attorney have filed briefs. Applicant did not request an oral hearing.

The Examining Attorney's position essentially is that applicant's proposed mark 4YOURPARTY.COM is the phonetic equivalent of FOR YOUR PARTY.COM; that the purchasing public is frequently exposed to the number "4" used in place of the preposition "for" and would so perceive the number in this case; that the proposed mark is merely descriptive of the purpose and use of applicant's distributorship services because it immediately informs consumers that applicant offers an on-line marketplace for all their party supplies; and that the mark is unregistrable on the Principal Register absent a showing of acquired distinctiveness. The Examining Attorney points out that ".com" is a generic designation identifying a top level domain (TLD) location information.

Applicant acknowledges that ".com" is a domain name identifier and is without any inherent trademark significance. (Brief, p. 3, footnote 4.) However, applicant contends that it takes a multi-stage reasoning process to interpret the mark, in its entirety, as merely

descriptive of a feature or purpose of applicant's services; that the number "4" and the words "YourParty" will be separately comprehended by consumers; that the first interpretation by consumers of the element "4" should necessarily be that of the number "four" and even if consumers transpose the number to mean "for," it nonetheless remains first and foremost a number not a word; that even if "For Your Party" arguably describes party goods, applicant seeks to register the mark only for services; and that applicant's mark has non-descriptive meanings such as a list of items including "Item No. 4...YOUR PARTY," and the word "your" points suggestively to the consumer. Applicant also specifically contends that the Nexis and Internet evidence made of record by the Examining Attorney consists of extremely small samples from the extraordinarily large numbers of search results; and that the evidence is not specifically directed to or relevant to applicant's distributorship services.

The test for determining whether a term or phrase is merely descriptive under Section 2(e)(1) of the Trademark Act is whether the term immediately conveys information concerning a significant quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used. See *In re Abcor*

Development Corp., 588 F.2d 811, 200 USPQ 215 (CCPA 1978); In re Eden Foods Inc., 24 USPQ2d 1757 (TTAB 1992); and In re Bright-Crest, Ltd., 204 USPQ 591 (TTAB 1979). The determination of mere descriptiveness must be made, not in the abstract, but rather in relation to the goods or services for which registration is sought, the context in which the term or phrase is being used on or in connection with those goods or services, and the impact that it is likely to make on the average purchaser of such goods or services. See In re Consolidated Cigar Co., 35 USPQ2d 1290 (TTAB 1995); and In re Pennzoil Products Co., 20 USPQ2d 1753 (TTAB 1991). That is, the question is not whether someone presented with only the term or phrase could guess what the goods or services are. Rather, the question is whether someone who knows what the goods or services are will understand the term or phrase to convey information about them. See In re Home Builders Association of Greenville, 18 USPQ2d 1313 (TTAB 1990); and In re American Greetings Corp., 226 USPQ 365 (TTAB 1985).

The Examining Attorney submitted photocopies of excerpts of stories retrieved from the Nexis database, as well as search results from the Internet to show that the number "4" is commonly used to mean "for" and the public is aware of the same. Both applicant and the Examining

Attorney submitted photocopies of third-party registrations to show, respectively, either that the element "4" carried the mark or that "4 \_\_\_" or "for your \_\_\_" was disclaimed in the mark.

We agree with the Examining Attorney that 4YOURPARTY.COM immediately and directly conveys information about the nature and purpose of applicant's "distributorship services in the field of party and catering supplies." First, the Examining Attorney's evidence is sufficient to establish that "4" is commonly used to mean "for," and would be so understood by the purchasing public. In this regard, we do not agree with applicant that the Examining Attorney was required to submit a much larger sample and verify that it was a representative sample. This is because the Examining Attorney was offering the evidence not to establish that the mark as a whole is merely descriptive, but for a more limited purpose, namely, that the public understands the number "4" is commonly used to mean the preposition "for."

The Examining Attorney searched "4 your" on the Internet and submitted the first 40 "hits" out of 6,910,000; and the Examining Attorney submitted 8 of 4239 stories retrieved from a search of "4 your" on Nexis. Neither the Board (nor applicant) would want a true

representative sample of almost 7 million hits on the Internet or over 4200 stories from Nexis. Such a voluminous amount of material would be unmanageable and unnecessary for the purpose of determining the registrability of marks in Board proceedings. Implicit in applicant's criticism of the record is the conclusion that the references submitted by the Examining Attorney are the only ones which support his position, and that the other references would support applicant's position. However, we note that the Examining Attorney simply submitted the first 40 hits of the nearly 7 million Internet hits, rather than culling only for hits that favor the Examining Attorney's position. In this context, the Board (and applicant) may extrapolate the general meaning of a term from a minor sample.

As noted, the determination of mere descriptiveness must be made in relation to the identified services, and the context in which the designation is being used. The following wording appears on applicant's specimen of record: "The Premier On-Line Source For All Your Catering/Party Needs" and "The Premier On-Line Marketplace for all Catering, Party, and Wedding Reception Supplies." The designation "4YOURPARTY" would be readily understood by the purchasing public as "FOR YOUR PARTY." While "4" is a

number, on this record (including applicant's specimen), it is clear that the designation "4" is used to mean the preposition "for."

A descriptive term or phrase does not have to provide information regarding every aspect of an applicant's goods or services. See *In re Opryland USA Inc.*, 1 USPQ2d 1409 (TTAB 1986); and *In re The Weather Channel, Inc.*, 229 USPQ 854 (TTAB 1985). It is true that applicant has applied for registration of a service mark, but it is also true that applicant's service is selling party supplies and equipment. The specimen of record states: "Specializing In: Upscale Dinnerware ... Dinnerware/Plates/Bowls ... Drinkware ... Plastic Cutlery ... Chafing Dishes/Pans/Canned Heat ... Tablecovers/Round/Oblong ... Supplies/Equipment." Moreover, "party (and catering) supplies" appears in applicant's identification of services. There is simply no question that one of the central features of applicant's distributorship services is the sale of all types of party supplies and equipment. Hence, we conclude that the purchasing public would recognize and attribute the meaning "for your party" to the applied-for mark, when used in connection with applicant's services. That is, the designation 4YOURPARTY.COM, when considered in its entirety, will readily be understood by

consumers to refer to applicant's services of providing all types of party supplies and equipment.

Applicant does not dispute that the ".com" portion of applicant's applied-for mark is merely part of a domain address, and lacks trademark significance. See 555-1212.com, Inc. v. Communication House International, Inc., 157 F.Supp. 2d 1084, 59 USPQ2d 1453 (N.D.CA. 2001); In re Page, 51 USPQ2d 1660 (TTAB 1999); and 1 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition, §7:17.1 (4th ed. 2000).

In this application, we find that the designation, 4YOURPARTY.COM, in relation to applicant's identified services does not evoke a unique commercial impression, nor does this combination of the elements give the applied-for mark, considered as a whole, an incongruous meaning in relation to applicant's services such that the elements lose their descriptive significance in the combined expression. Rather, applicant's mark as a whole, when used in connection with applicant's identified services, immediately describes, without need for conjecture or speculation, a significant feature of applicant's services, as discussed above. See In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); In re Omaha National

Corporation, 819 F.2d 1117, 2 USPQ2d 1859 (Fed. Cir. 1987);  
and In re Time Solutions, Inc., 33 USPQ2d 1156 (TTAB 1994).

**Decision:** The refusal to register the proposed mark  
as merely descriptive under Section 2(e)(1) is affirmed.